

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kevin Konieczny

(b) County of Residence of First Listed Plaintiff **Bucks**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marc A. Weinberg, Saffren & Weinberg 815 Greenwood Avenue, Ste 22
Jenkintown, PA 19046 (215)576-0100

DEFENDANTS

Buffalo Wild Wings and Buffalo Wild Wings, Inc. and KPW Management

County of Residence of First Listed Defendant **Baltimore**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations Act <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:
Premises Liability Slip and Fall

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/28/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1219 West Pine Street Feasterville-Treose, PA 19053

Address of Defendant: 10391 Reisterstown Road Owings Mill, MD 21117

Place of Accident, Incident or Transaction: Baltimore County

RELATED CASE, IF ANY:

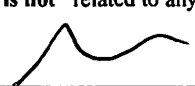
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 02/28/2020


Attorney-at-Law / Pro Se Plaintiff

60643

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☒ 6. Other Personal Injury (Please specify): Premises Liability Slip and Fall
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Marc A. Weinberg, counsel of record or pro se plaintiff, do hereby certify:




Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:



Relief other than monetary damages is sought.

DATE: 02/28/2020


Attorney-at-Law / Pro Se Plaintiff

60643

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Kevin Konieczny

v.

Buffalo Wild Wings

:
:
:
:
:

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

February 28, 2020

Date

Marc A. Weinberg

Attorney-at-law

Plaintiff

Attorney for

215-576-0100

Telephone

215-576-6288

FAX Number

kramsey@saffwein.com

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KEVIN KONIECZNY	:	
1219 West Pine Street	:	
Feasterville-Trevoise, PA 19053	:	
VS.	:	
BUFFALO WILD WINGS	:	CIVIL ACTION
10391 Reisterstown Road	:	
Owings Mills, MD 21117	:	
and	:	
BUFFALO WILD WINGS, INC.	:	JURY TRIAL DEMANDED
5500 Wayzata Boulevard, Ste. 1600	:	
Minneapolis, MN 55416	:	
and	:	
KPW MANAGEMENT	:	
d/b/a WINGS ACROSS AMERICA	:	
REAL ESTATE, LLC a/k/a	:	
WINGS ACROSS AMERICA, LLC	:	
22285 N. Pepper Road, Ste. 307	:	
Lake Barrington, IL 60010	:	

I. PRELIMINARY STATEMENT

1. Plaintiff, Kevin Konieczny (hereinafter “Plaintiff”) brings this action for Negligence. Plaintiffs seek equitable relief, compensatory damages, costs and attorney fees from Defendants, Buffalo Wild Wings, Buffalo Wild Wings, Inc., and KPW Management d/b/a Wings Across America Real Estate, LLC, a/k/a Wings Across America, LLC, for Defendants’ tortuous actions.

II. THE PARTIES

2. Plaintiff, Kevin Konieczny is an adult individual and citizen of the Commonwealth of Pennsylvania, residing at the above-captioned address.

3. Upon information and belief, Defendant, Buffalo Wild Wings is a restaurant, located within the State of Maryland, at 10391 Reisterstown Road, Owings Mills, MD 21117.

4. Upon information and belief, Defendant, Buffalo Wild Wings, Inc., is a

corporation or other duly organized business, with its corporate headquarters located at 5500 Wayzata Boulevard, Ste. 1600, Minneapolis, MN 55416.

5. Upon information and belief, Defendant, KPW Management d/b/a Wings Across America Real Estate, LLC, a/k/a Wings Across America, LLC, is a limited liability company, or other duly organized business entity, with its corporate headquarters located at 22285 N. Pepper Road, Suite 307, Lake Barrington, IL 60010.

III. JURISDICTION AND VENUE

6. Jurisdiction over this action is conferred on this Court by 28 U.S.C. §1331, 28 U.S.C. §1332, and 28 U.S.C. §1343.

7. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391.

8. Defendants purposely avail themselves to this Jurisdiction as they regularly conduct business in the Commonwealth of Pennsylvania and in the Jurisdiction of the Eastern District of Pennsylvania and the Plaintiff is a resident of the Commonwealth of Pennsylvania.

8. The Defendants individually, and the Plaintiffs are citizens of different States, and therefore meet the diversity requirements.

9. The value of the claims contained herein are in excess of \$75,000.00.

COUNT I - NEGLIGENCE

**KEVIN KONIECZNY V. BUFFALO WILD WINGS, BUFFALO WILD WINGS, INC.,
AND KPW MANAGEMENT D/B/A WINGS ACROSS AMERICA REAL ESTATE, LLC
A/K/A WINGS ACROSS AMERICA, LLC**

10. Plaintiff hereby incorporates by reference all of the aforementioned paragraphs as if fully set forth at length herein.

11. At all times material hereto, on or about, March 11, 2019, Plaintiff, Kevin

Konieczny was a business invitee at a Buffalo Wild Wings establishment, located at 10391 Reisterstown Road, Owings Mill, MD 21117.

12. On the aforesaid date, Plaintiff was walking in an aisle way of the Buffalo Wild Wings, when an uncleaned spill located in the middle of the aisle way, caused the Plaintiff to slip and fall. Plaintiff tried to brace himself as he fell, and was injured.

13. At the time of the accident, Defendants, individually, jointly and severally and/or their agents, servants, workmen, and/or employees, were negligent, as follows:

- a. Permitting a dangerous and defective condition to exist on the grounds of the subject premises;
- b. Failing to warn the Plaintiff and the public at large of the existence of a dangerous and defective condition;
- c. Failing to exercise due care with regard to the rights and safety of the Plaintiff under the circumstances, by failing to either warn or remove the dangerous and defective condition and by allowing the condition to exist after receiving either actual or constructive knowledge of it;
- d. Failing to exercise that degree of care required of a possessor of land in order to protect the Plaintiff and the public at large for personal injuries caused by dangerous and defective conditions;
- e. Failing to use reasonable prudence in the care and maintenance of the premises;
- f. Failing to provide adequate safeguards to prevent injury to individuals such as the Plaintiff;
- g. Such further negligence and carelessness as the circumstances and

discovery shall disclose.

14. Solely as a result of the accident, Plaintiff, Kevin Konieczny was caused to suffer various physical injuries in and about his person, including, but not limited to torn left biceps, requiring surgical distal bicep repair, and other injuries; shock to his entire nervous system; excruciating aches and pain and mental anguish, he suffered other severe and diverse injuries, the full extent of which have not been ascertained, some or all of which are or may be permanent in nature.

15. As a further result of the aforesaid accident, Plaintiff, Kevin Konieczny has been and probably will be in the future be caused to suffer great pain and agony, and has been and probably will in the future hindered and prevented from attending to his usual daily duties, labors, occupations and household chores, thereby resulting in a loss, all to his great and continuing detriment and loss.

16. As a result of the aforesaid accident, Plaintiff, Kevin Konieczny has incurred substantial expenses of money for medical attention for various purposes in an attempt to effect a cure from the aforesaid injuries, and he may be compelled to incur additional sums for such medical attention and purposes for an indefinite time in the future.

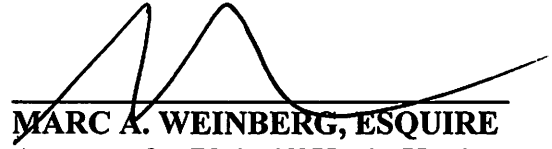
17. As a result of the aforesaid accident, Plaintiff, Kevin Konieczny has suffered physical pain, mental anguish and humiliation and he may continue to suffer same for an indefinite period of time in the future.

18. The aforesaid accident was not caused by any negligence or carelessness of Plaintiff, Kevin Konieczny and was due in no manner whatsoever to any act, or failure to act, on the part of Plaintiff, Kevin Konieczny.

WHEREFORE, Plaintiff, Kevin Konieczny, demands judgment against the Defendant, Buffalo Wild Wings, Buffalo Wild Wings, Inc., and KPW Management d/b/a Wings Across America Real Estate, LLC, a/k/a Wings Across America, LLC, individually, jointly and severally, in an amount in excess of \$75,000.00 together with interest and costs of suit and any other relief this Court deems just and proper

Respectfully submitted,

BY:



MARC A. WEINBERG, ESQUIRE
Attorney for Plaintiff Kevin Konieczny
P.A. I.D. 60643
815 Greenwood Avenue, Suite 22
Jenkintown, PA 19046
(215) 576-0100
Mweinberg@saffwein.com

Dated: